

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

SEAN ANDREW DUNCAN,

Defendant.

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Criminal No. 1:18-cr-19

1:18cr161

STATEMENT OF FACTS

The United States and the defendant, SEAN ANDREW DUNCAN agree that at trial, the United States would have proved the following facts beyond a reasonable doubt with admissible and credible evidence:

1. On December 29, 2017, in Sterling, Virginia, in the Eastern District of Virginia, the defendant, SEAN ANDREW DUNCAN, unlawfully and knowingly altered, destroyed, mutilated, concealed, and covered up tangible objects with the intent to impede and obstruct the investigation of a matter within the jurisdiction of an agency of the United States, or in contemplation of such matter; to wit: DUNCAN altered, destroyed, mutilated, concealed, and covered up a thumb drive and memory chip with the intent to impede and obstruct an investigation of the Federal Bureau of Investigation into criminal violations of United States law.

2. In or about December 2017, within Fairfax County, in the Eastern District of Virginia, the defendant, SEAN ANDREW DUNCAN, knowingly and unlawfully received a visual depiction of a minor engaging in sexually explicit conduct using any means and facility of interstate and foreign commerce, and that had been shipped and transported in and affecting interstate and foreign commerce, and which contained materials which had been shipped and

transported, by any means including by computer; to wit: DUNCAN received by means of a Samsung Galaxy Note 3 smartphone (“the Samsung Galaxy”) connected to the Internet still images depicting minor and prepubescent children engaging in sexually explicit conduct, including actual and simulated intercourse, masturbation, and the lascivious exhibition of the genitals and pubic area.

A. The Counterterrorism Investigation

3. On or about October 15, 2004, the United States Secretary of State designated al-Qaeda in Iraq (“AQI”), then known as Jam ‘at al Tawhid wa’al-Jihad, as a Foreign Terrorist Organization (“FTO”) under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224. On or about May 15, 2014, the Secretary of State amended the designation of AQI as a FTO under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224 to add the alias Islamic State of Iraq and the Levant (“ISIL”) as its primary name. The Secretary also added the following aliases to the FTO listing: The Islamic State of Iraq and al-Sham (“ISIS”—which is how the FTO will be referenced herein), the Islamic State of Iraq and Syria, ad-Dawla al-Islamiyya fi al-Iraq wa-sh-Sham, Daesh, Dawla al Islamiya, and Al-Furquan Establishment for Media Production. On September 21, 2015, the Secretary added to the FTO listing the aliases Islamic State, ISIL, and ISIS. To date, ISIS remains a designated FTO.

4. An unnamed co-conspirator (hereinafter “UCC”), is in the custody of a foreign government for actively planning to travel to join ISIS. Duncan was one of UCC's U.S.-based contacts who had expressed an interest in joining ISIS, conducting an attack in his homeland (the United States), and how to construct homemade bombs. Duncan and UCC primarily spoke on

encrypted mobile messaging applications. UCC communicated with Duncan on an encrypted mobile messaging account ("MM1").

5. UCC first became acquainted with Duncan on social media in January 2015 when Duncan sent her a friend request. UCC and Duncan initially communicated through social media but subsequently exchanged phone numbers and communicated on encrypted mobile messaging applications.

6. Duncan shared news articles with UCC from an ISIS news outlet known as Amaq News. During their communications in early 2015, Duncan expressed agreement with ISIS spokesman Abu Mohammad Al-Adnani's statement that Muslims should be striking their own homelands. When UCC asked Duncan directly if he supported ISIS, he replied that he did. In addition, UCC made it clear to Duncan from the start of their relationship in the beginning of 2015 that she would not communicate with him unless he was "pro-ISIS." UCC was looking for a "Salafi or an ISIS supporter" to marry and live with in Syria. She believed she would reap "heavenly rewards" if she married an ISIS fighter who died in battle.

7. In February 2015, UCC asked Duncan if he intended to go to Syria. Duncan told UCC that he wanted to make "hijrah" to Syria and that he wanted UCC to go with him to Syria. In order for Duncan and UCC to go to Syria together, Duncan proposed marriage to UCC. Duncan's proposal occurred over an encrypted mobile messaging application. Duncan told UCC that after they were married, he wanted to plan their trip to Syria. Duncan wanted to come to UCC's country to propose to UCC in person, but she said it was too soon. As a result of UCC rejecting Duncan's offer of marriage, the two broke contact in or around March 2015.

8. Before they broke contact, UCC was upset at work due to non-Muslim women wearing shorts that exposed their bodies. UCC told Duncan via an encrypted mobile messaging

application she was upset with the way these women dressed and she wanted to do something about it. UCC told FBI investigators that Duncan replied with a link to a website, and a message saying she could “try this.” UCC said that the link was to an article titled, “How to build a bomb in the kitchen of your Mom” from *Inspire* magazine, and contained pictures and instructions on how to make weapons and bombs.

9. In 2015, Duncan posted ISIS material on his Facebook page, including the black flag used by ISIS. In 2015, Duncan was introduced by a female ISIS supporter to a male ISIS member in Raqqah, Syria, through an encrypted mobile messaging app. Through encrypted mobile messaging applications and Facebook, Duncan often communicated with ISIS supporters in Syria and elsewhere. Duncan discussed with an ISIS member in Raqqa, Syria, potentially traveling to Syria and bringing his family.

10. In November 2015, Duncan created a Twitter account with the Twitter handle @DawlahtulIslaam. The phrase “Dawlahtul Isla[a]m” is an Arabic phrase that roughly translates to “The Islamic State.”

11. In January 2016, Duncan asked UCC if she still wanted to go to Syria and to be his second wife. UCC asked Duncan if his current wife would be okay with UCC coming with them to Syria. Duncan stated that his wife would have to be okay with it. UCC did not agree to go, and the two broke contact again.

12. Duncan and his wife booked a flight to Istanbul, Turkey, departing from Washington Dulles International Airport, on February 26, 2016. They were scheduled to depart Turkey for Bangladesh on March 4, 2016, and return to the United States on March 20, 2016. On February 26, 2016, Duncan and his wife departed the United States for Turkey. On February 27,

2016, they were denied entry into Turkey, and returned to the United States. Upon their return, they were interviewed by the FBI.

13. On or about August 6, 2016 and September 14, 2016, Duncan took multiple pictures and/or videos of himself holding up a single index finger in a manner that signified support for ISIS.

14. On or about October 12, 2016, Duncan viewed and reacted to a Facebook post about martyrdom. The post quoted al-Bidaayah wa'l-Nihaayah, and included the statement "the only thing standing between you and Paradise is your being killed." The post also included a quote that "if they kill you for the truth, you will be a shaheed (martyr)". At another time, Duncan conducted a Google search on his phone that contained the phrase "I want to die."

15. In December 2016, Duncan, utilizing an encrypted mobile messaging account, re-initiated contact with UCC. Duncan told UCC that he had come back from Turkey, from where he and his wife had been sent back to the United States. Duncan said he thought the FBI was monitoring him, but would not elaborate on why he was deported or why the FBI was monitoring him. Duncan said he did not want to implicate himself and that his wife could keep secrets. Duncan stated that his wife knew what to say when questioned by authorities.

16. Between March 2017 and June 2017, Duncan used his smartphone to conduct hundreds of internet searches for ISIS-related materials; weapons; terrorists; body armor; surveillance; defense tactics; leaked directory of government employees, watchlist terms, watchlist explanations and leaked FBI data on terrorist encounters in the USA. For example, on or about April 1, 2017, Duncan used his phone to take photos and/or videos of tactical gear and a rifle carrying case in what appears to be a firearms or military surplus store. Duncan took pictures of other tactical gear including what appears to be assault rifles. Duncan also searched the name Abu

Bakr al-Baghdadi, Amir Khattab, and Chechen jihad and took several screenshots of the resulting images of al-Baghdadi and Osama Bin Laden, and a picture of soldiers with a black flag in the background.

17. On or around April 21, 2017, Duncan used his phone to search phrases and topics including bicep armor; Pennsylvania body armor laws; Maryland body armor laws; Virginia body armor laws; full body armor suit; mass body armor laws; Hoplite Army tactical body armor and armor accessories; operator's assault vest; and military bulletproof vest.

18. In or about May 2017, Duncan used his phone to search for information about firearms. On or about May 23, 2017, Duncan searched the phrase Manchester Attack and viewed articles related to the terrorist attack conducted by Salman Abedi.

19. On August 11, 2017, an FBI undercover employee (UCE) posing as UCC, contacted Duncan, who was using an encrypted mobile messaging account ("MM2"). UCE told Duncan that "she" had been arrested by foreign authorities. Immediately after being told this, Duncan created secure chats and self-destruct timers to destroy the content of his messages with UCE. UCE told Duncan that "she" intended to make "hijrah." Duncan stated, "Hm, you know a fence Someone to take you, and is it safe in Iraq." Later, UCE asked Duncan if he had a contact in Syria, to which Duncan responded, "No a couple have been martyred (sic)."

20. On August 20, 2017, UCE told Duncan that "she" was in contact with an individual in Libya who was attempting to facilitate "her" travel to Libya. UCE told Duncan that the Libyan contact was asking various vetting questions prior to assisting UCE. UCE told Duncan that "her" Libyan contact was asking strange questions, such as UCE's blood type and family contact. UCE then asked Duncan if he (Duncan) and his wife were asked similar questions when they tried to

travel to Syria. Duncan stated, “they won’t ask that.” Duncan further stated, “I didnt (sic) go for that Just honeymoon.”

21. Later in the conversation, however, UCE asked Duncan what to do about “her” contact in Libya. Duncan recommended that UCE “. . . lie to him.” Duncan stated he had never dealt with unnecessary vetting by “contacts” and that he had “always had referrals.” ISIS uses a referral system to recruit new members, and Duncan’s statement meant that Duncan did not get asked questions by his contacts because he had “referrals” who could give them “tazkiyah.” Tazkiyah is a recommendation from a Jihadi Shaykh from their homeland or a Mujahid already in the land of Jihad. It is a generally given by an existing member of ISIS to show an individual is trustworthy.

22. In October 2017, a foreign government arrested one of its nationals (“Recruiter 1”) for inciting rebellion. Recruiter 1 is an ISIS recruiter who is suspected of drawing foreign fighters from around the world to Recruiter 1’s home country using social media. Recruiter 1 was married to two jihadis with connections to ISIS, one of whom is dead and the other of whom was arrested for extremism by his home country. Recruiter 1 posted a message on an electronic messaging application soliciting local and foreign Muslims to help terrorists fight government troops in Recruiter 1’s home country.

23. Recruiter 1 recorded the names and telephone numbers of individuals who had requested to join her Telegram, Facebook, or other social media and/or communication application groups. Recruiter 1’s notes included a handwritten name appearing to be “Sean Ibn Gary Duncan,” associated with a phone number used by Duncan and the user name associated with MM1. In Arabic, “Ibn” means “son of”. Sean Andrew Duncan's father's name is Gary Duncan.

24. In December 2017, one of Duncan's smartphones contained hundreds of images of beheadings of adult men, ISIS fighters and propaganda videos promoting ISIS extremism. It also contained images of what appeared to be bloodied, deceased children located in a conflict zone similar to Syria or Iraq.

B. Child Pornography

25. In December 2017, Duncan possessed a Samsung Galaxy smartphone. Contained on the Samsung Galaxy smartphone were images of pre-pubescent minors that appeared to be engaged in sexually explicit conduct with adult males. Other images on the phone were of pre-pubescent minors posed to expose their genitalia in a sexual manner. Several of the images of child pornography were screen shots that Duncan had taken of websites containing child pornography that he had visited. The pre-pubescent minors in the photos were as young as infants, and the total number of images was in the thousands.

26. One image on the Samsung Galaxy phone consisted of Duncan's hand, exposing the genitalia of one of Duncan's infant relatives in a sexual manner. In June and July 2017, that infant relative resided in the same home as Duncan and his wife in Reston, Virginia.

27. On several of Duncan's phones and electronic devices in December 2017, were thousands of videos and images of children and women that Duncan took in a voyeuristic manner of their rear ends. Several of the videos and images are taken in public venues such as stores, metros, parks, and restaurants. The women and children include strangers and family members.

C. Obstruction of Justice

28. On December 19, 2017, this Court (Buchanan, M.J.) authorized searches including that of Duncan's residence on Courtyard Square, in Sterling, Virginia, for evidence of attempts to provide material support to ISIS, in violation of 18 U.S.C. § 2339B, as well as false statements, in

violation of 18 U.S.C. § 1001. Among the items authorized for seizure in the search was information involving travel or attempts to travel overseas; communications with members of foreign terrorist groups, or other information identifying support for or research related to a foreign terrorist group.

29. On December 29, 2017, FBI agents executed the search warrant at Duncan's residence. The agents knocked on the door, identified themselves as FBI, and announced that they were there to execute a search warrant. Receiving no response, the agents knocked and announced their presence again, but received no response again. The agents then forcibly opened the door, and again identified themselves as FBI, and that they were there to execute a search warrant.

30. Moments before the FBI agents entered the residence through the front door, Duncan ran out the back door, barefoot, and with something clenched in his fist. FBI agents guarding the back door yelled at Duncan to stop. Before stopping, Duncan threw a plastic baggie over the heads of the agents.

31. FBI agents recovered the baggie thrown by Duncan. The baggie was a clear plastic Ziploc bag, containing a memory chip stored within a thumb drive that had been snapped into pieces, and placed in a liquid substance that produced frothy white bubbles. Upon searching Duncan, agents recovered a broken casing for a thumb drive from Duncan's pants pocket. The liquid substance was a cleaning solution.

32. Duncan fled from the house with the baggie and the memory chip and the broken thumb drive in order to conceal those items from the FBI agents that Duncan knew were about to search his house. Further, the thumb drive was snapped in pieces because Duncan altered, destroyed, and mutilated it in order to impede and obstruct the FBI's investigation of him. The

memory chip and broken thumb drive was contained in a baggie containing a liquid substance because Duncan altered, destroyed, and mutilated it in order to impede and obstruct the FBI's investigation of him. Duncan was arrested that same day for attempting to obstruct justice.

33. The liquid in the bag was bleach or a cleaning solution that contained chlorine. The fragments in the baggie were the remnants of a memory chip and circuit board from a USB flash drive. Due to the extensive damage to the device, no data has yet been recovered.

34. From the Alexandria Detention Center on January 13, 2018, Duncan spoke by telephone with his friend "WB." During the call, WB said that WB was scheduled to speak with the FBI about Duncan, and that WB would tell the FBI that "you absolutely spoke to somebody from ISIS. You know, ISIS was actively trying to recruit you. We both know this, and they know this." A few minutes later in the same call, Duncan told WB that "[a]ctually, about our mutual friend, they don't seem to know about that," and that Duncan was trying to keep it that way.

35. From the Alexandria Detention Center on January 14, 2018, Duncan spoke by telephone with his father. Duncan told his father to instruct WB not to "put forth something" that the FBI did not already know, and repeatedly told his father to remind WB that the mutual friend that WB had with Duncan was Allah. In fact, Duncan and WB both had spoken with a member of ISIS, and Duncan was attempting to get Duncan's father to instruct WB to refrain from mentioning to the FBI that both Duncan and WB had spoken with that member of ISIS.

36. This statement of facts includes those facts necessary to support the plea agreement between the defendant and the United States. It does not include each and every fact known to


the defendant or to the United States, and it is not intended to be a full enumeration of all of the facts surrounding the defendant's case.

37. The actions of the defendant, as recounted above, were in all respects knowing and deliberate, and were not committed by mistake, accident, or other innocent reason.

Respectfully submitted,

Tracy Doherty-McCormick
Acting United States Attorney

By:



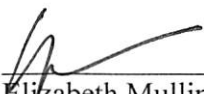
Colleen E. Garcia
Gordon D. Kromberg
Assistant United States Attorneys

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, SEAN ANDREW DUNCAN, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.



SEAN ANDREW DUNCAN

I am SEAN ANDREW DUNCAN's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.



Elizabeth Mullin
Assistant Federal Public Defender
Attorney for SEAN ANDREW DUNCAN